

2025 South Dakota Legislature

House Bill 1137**AMENDMENT 1137A
FOR THE INTRODUCED BILL**

1 **An Act to establish coverage provisions related to the treatment of pain with non-**
2 **opioid drugs.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 ~~**Section 1. That a NEW SECTION be added to chapter 28-6:**~~

5 ~~The Department of Social Services shall establish a preferred drug list for the medical~~
6 ~~assistance program. The department may amend the preferred drug list at any time.~~

7 ~~When establishing or amending the preferred drug list, the department shall ensure that a~~
8 ~~non-opioid drug approved by the United States Food and Drug Administration for the~~
9 ~~treatment or management of pain is not disadvantaged or discouraged with respect to~~
10 ~~coverage relative to any opioid or narcotic drug for the treatment or management of pain on~~
11 ~~the preferred drug list.~~

12 ~~This section applies to a non-opioid drug immediately upon its approval by the United States~~
13 ~~Food and Drug Administration for the treatment or management of pain, regardless of~~
14 ~~whether the drug has been reviewed by the department for inclusion on the preferred drug~~
15 ~~list.~~

16 **Section 1. That a NEW SECTION be added to chapter 58-17:**

17 ~~In establishing and maintaining its formulary, any insurer offering a A policy or~~
18 ~~certificate of health insurance that is delivered, issued for delivery, or renewed in this~~
19 ~~state, or any self-funded employee benefit plan, to the extent not preempted by federal~~
20 ~~law, must ensure that a provide coverage for a broad spectrum of pain management~~
21 ~~medications, including non-opioid drug options that are alternatives to opioid drugs, if~~
22 ~~prescribed by a health care provider authorized to prescribe the drug.~~

23 ~~A policy of health insurance that is delivered, issued for delivery, or renewed in this~~
24 ~~state, or any self-funded employee benefit plan, to the extent not preempted by federal~~

1 law, may not, for coverage relative to pain management medications, establish utilization
2 controls, including prior authorization or step therapy requirements, for a clinically
3 appropriate non-opioid drug approved by the United States Food and Drug Administration
4 for the treatment or management of pain ~~is not disadvantaged or discouraged with respect~~
5 ~~to coverage relative to,~~ which are more restrictive or extensive than the least restrictive
6 or extensive utilization controls applicable to any clinically appropriate opioid ~~or narcotic~~
7 drug for the treatment or management of pain on the formulary drug.

8 The benefits provided in this section are subject to the same dollar limits,
9 deductible, coinsurance, and other restrictions established for other benefits covered by
10 the policy or plan.

11 This section applies to a non-opioid drug immediately upon its approval by the
12 United States Food and Drug Administration for the treatment or management of pain,
13 regardless of whether the drug has been reviewed for inclusion on the formulary.

14 **~~Section 2. That a NEW SECTION be added to chapter 58-17:~~**

15 ~~When a health care professional prescribes a non-opioid drug for the treatment of or~~
16 ~~management of pain, a health insurer, or a self-funded employee benefit plan, to the extent~~
17 ~~not preempted by federal law, may not deny coverage of the non-opioid drug in favor of an~~
18 ~~opioid drug.~~

19 ~~If a policy or certificate of health insurance delivered, issued for delivery, or renewed in this~~
20 ~~state, or a self-funded employee benefit plan, to the extent not preempted by federal law,~~
21 ~~restricts coverage of a non-opioid drug for the treatment or management of pain, the~~
22 ~~prescribing health care professional must be granted an exception to the restriction, if the~~
23 ~~professional confirms that, based on the professional's clinical judgment, the non-opioid drug~~
24 ~~is appropriate for the patient's treatment.~~